SN 10/616,479
Docket No. S-100,631
In Response to Office Action dated 5/24/2007

REMARKS

The Office Action has been carefully reviewed. Reconsideration and allowance of the claims in light of the foregoing amendments is respectfully requested. A petition and fee for a three-month extension of time is submitted herewith.

The Office Action acknowledged the Applicant's election without traverse of Group II (claims 28-32) in the reply filed on July 13, 2006.

Applicants have amended claim 28 to more particularly point out and distinctly claim the subject matter which the applicants regard as their invention. Specifically, claim 28 has been amended to further include the limitation on the composition of matter that the "solution having been filtered so as to seperate materials having molecular weights of less than 10,000 g/mol from said solution". This limitation finds support in the specification, e.g., at page 8, lines 17-27, and in the various specific examples A-N at pages 10-15 wherein each example sets out a filtration to pass materials having molecular weights of less than 10,000 g/mol. Additionally, new claims 33-45 have been added to address specific combinations of metals or additions to the solution such as EDTA, all such combinations finding support in the same examples A-N and original claims 1-27. Finally, non-elected claims 1-27 have been cancelled by this amendment.

Claims 28-32 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sun et al. (US 6,071,489). The Office Action stated that Sun et al teach the instant aqueous solution comprising two metal precursors (Li acetate and Mn acetate) and a soluble polymer (polyacrylic acid) at col. 3, lines 1-14 and at col. 1, lines 5-18 and in example 3. Thus, the Office Action concluded that the instant invention lacks novelty.

Applicants respectfully note that Sun et al. does not teach or suggest the subject matter of claims 28 as amended or of the dependent claims 29-45. Specifically, Sun et al. does not teach or suggest filtering their solution so as to seperate materials having molecular weights of less than 10,000 g/mol from their solution. As noted by the present specification (see page 8, lines 25-27), such a filtration can remove unbound metal, smaller polymer fragments, unwanted salts and other impurities. Accordingly, as Sun et al. fails to teach every aspect of the claimed invention, claims 28-45 are not

anticipated by this reference. Thus, the rejection of claims 28-32 as anticipated by Sun et al. under 35 U.S.C. 102(b) is urged to be withdrawn. Further, Sun et al. contains no suggestion to further filter their solutions of lithium and manganese or lithium and nickel. Thus, applicants submit that the claims 28-45 are not obvious in view of the teachings and/or suggestions of Sun et al. Thus, the rejection of claims 28-32 as obvious over Sun et al. under 35 U.S.C. 103(a) is also urged to be withdrawn.

Claims 28 and 29 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gong et al. (US 5,318,800) or Chien (US 4,931,427). The Office Action stated that Gong et al teach the instant solution in example 9. Chien teaches the same in example 1. Thus, the Office Action concluded that the instant invention lacks novelty.

Applicants respectfully note that neither Gong et al. (see example 9) nor Chien teaches or suggests the subject matter of claims 28 as amended or of the dependent claims 29-45. Specifically, neither Gong et al. (see example 9) nor Chien teaches or suggests filtering their solution so as to seperate materials having molecular weights of less than 10,000 g/mol from their solution. As noted by the present specification (see page 8, lines 25-27), such a filtration can remove unbound metal, smaller polymer fragments, unwanted salts and other impurities.

Applicants note that Gong et al. do mention filtering but this is In stark contrast to the applicants' filtration requirement. Gong et al. specifically teach "filtering to remove foreign particles" (col. 3, lines 31-32) or "providing a polymer metal complex solution filtered as a clear liquid with no precipitates" (col. 4, lines 30-31). Thus, Gong et al. teach passing their solution through a filter whereby the filter removes (retains) the foreign particles and the thus filtered solution is then used further absent the foreign particles that remain on the filter. In the teachings of the present invention, the solution is filtered such that the unwanted materials pass though the filter and what is retained is what is desired. While it is recognized that this may not be explicitly within the claim language, it is submitted to be relevant to the question of obviousness as the approach of Gong et al. would not achieve the same results in the same manner to arrive at the presently claimed composition of matter. The mere mention of filtering by Gong et al. should not be confused with what applicants claim.

Accordingly, as neither Gong et al. (see example 9) nor Chien teach every aspect of the claimed Invention, claims 28-45 are not anticipated by this reference. Thus, the rejection of claims 28-32 as anticipated by Gong et al. or Chien under 35 U.S.C. 102(b) is urged to be withdrawn. Further, as Chien contains no suggestion to further filter their solutions and Gong et al. filter but in a different manner, applicants submit that the claims 28-45 are not obvious in view of the teachings and/or suggestions of those references. Thus, the rejection of claims 28-32 as obvious over Gong et al. or Chien under 35 U.S.C. 103(a) is also urged to be withdrawn.

Claims 28-32 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.SC. 103(a) as obvious over Li et al. (US 6,589,457). The Office Action stated that Examples 1 and 6 of Li et al. teach an aqueous solution comprising two metal precursors and a soluble polymer (PVA). Li et al. also teach the instant polymers such as poly (acrylic acid) and polyethyleneimine at col. 3, lines 6-14. See In re Mills, 477 F2d 649, 176 USPQ 196 (CCPA 1972); Reference must be considered for all that it discloses and must not be limited to its preferred embodiments or working examples. Thus, the Office Action concluded that the instant invention lacks novelty.

Applicants respectfully note that Li et al. does not teach or suggest the subject matter of claims 28 as amended or of the dependent claims 29-45. Specifically, Li et al. does not teach or suggest filtering their solution so as to seperate materials having molecular weights of less than 10,000 g/mol from their solution. As noted by the present specification (see page 8, lines 25-27), such a filtration can remove unbound metal, smaller polymer fragments, unwanted salts and other impurities. Accordingly, as Li et al. fails to teach every aspect of the claimed invention, claims 28-45 are not anticipated by this reference. Thus, the rejection of claims 28-32 as anticipated by Li et al. under 35 U.S.C. 102(b) is urged to be withdrawn. Further, Li et al. contains no suggestion to further filter their solutions. Thus, applicants submit that the claims 28-45 are not obvious in view of the teachings and/or suggestions of Li et al. Thus, the rejection of claims 28-32 as obvious over Li et al. under 35 U.S.C. 103(a) is also urged to be withdrawn.

The Office Action noted that claims 34-40 of co-pending application 10/888,868 (Pub. No. US 2005/0043184A1) have been withdrawn from consideration due to a restriction requirement, and thus there is no double patenting issue at this time.

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In view of the foregoing remarks, claims 28 - 45 are urged to be allowable over 35 U.S.C. 102 and 103. If the Examiner believes there are any unresolved issues despite this amendment, the Examiner is urged to contact the applicants' attorney undersigned below for a telephonic interview to resolve any such issue. A favorable action is solicited.

Respectfully submitted,

Date: 11/26/07

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